

## Summary of Part 600—Institutional Eligibility

### Overview

The goal of these negotiations is to modify or clarify certain regulations that pertain to institutional eligibility, including updating definitions and making conforming changes to those proposed for accreditation and educational innovation.

We also intend to use this opportunity to make technical corrections to provide greater regulatory clarity and better conform with statutory requirements.

### SUBPART A—GENERAL

#### §600.2 Definitions.

- Add a definition for *Additional Location*.
- Modify the definition of *Branch Campus* to distinguish it from other additional locations.
- Modify the definition of *Clock Hour* to include distance education in States where it is permitted for clock hour programs.
- Modify the definition of *Correspondence Course* to distinguish it from distance learning. In correspondence courses, the interaction between the instructor and students is limited to interactions initiated by the student and instructors do not follow a student's progress or performance throughout the duration of the program or course.
- Modify the definition of *Credit Hour* to allow institutions and accreditors to determine how they will evaluate academic progress. However, the Department is interested in feedback about how to create standards or guidelines that ensure quality, protect taxpayers, and do not limit innovation.
- Modify the definition of *Distance Education* to more clearly define the requirements of "regular and substantive interaction," which distinguishes distance education from correspondence education. Expands the definition of instructor to include instructional teams and provides greater flexibility for determining when and how often a student and instructor must interact.
- Define *Regular* to mean the frequency or periodicity of contact initiated by an instructor or members of an instructional team with a student, as approved by the institution's accrediting agency. Removes requirements that regular interactions must occur at a particular time interval and provides greater flexibility to accommodate the needs of non-traditional students who engage in self-paced learning.
- Define *Substantive* to expand the types of interactions that can be included as substantive interactions and expands the definition of an instructor to include instructional teams in which different members perform different functions.
- Modify the definition of *Eligible Institution* to clarify that an institution that does not participate in HEA programs is not required to meet the requirements of 600.4, 600.5 or 600.6.
- Modify the definition of *Incarcerated Student* to include those serving a criminal sentence in a youth correctional facility.
- Modify the definition of *Nonprofit institution* with regard to foreign institutions, to eliminate the reference to a determination made by the U.S. Internal Revenue Service.

- Modifies the definition of *Preaccreditation* (sometimes referred to as candidacy status) to explain that this is a temporary, full-accreditation status, rather than a quasi-accreditation status. Since students enrolled in a preaccredited institution or program are eligible to participate in title IV programs, it is incumbent upon the Department to ensure that credits or degrees earned during this time have the full value of any other title IV participating program or institution. Otherwise, many students who complete their program will never be allowed to practice in their field since some accreditors require an institution or program to graduate one or more cohorts of students prior to making a final accreditation decision. Since preaccreditation can last for 5 years, and students could be using up their Pell eligibility and taking loans during that time, we must make sure that students obtain the full value of their investment.
- Modify the definition of *Religious mission* to protect religious freedom and ensure that accreditors do not discriminate against an institution on the basis of their religious tenets, beliefs or teachings.
- Define *State authorization reciprocity agreement* to reduce regulatory and compliance burden and provide students greater access to a range of educational options. The Department is also interested in recommendations for maintaining or improving reciprocity agreements and any other necessary definitional clarifications.
- Clarify that a *Teach-out* may include the period of time in which an institution engages in an orderly closure or the period of time after a precipitous closure when another institution steps in to enable students to complete their program.
- Define *Teach-out agreement* as a written agreement between institutions that provides for the equitable treatment of students and a reasonable opportunity for students to complete their program of study if an institution. Oftentimes, there is confusion about the role of teach-out plans, which are generic frameworks for a school closure, and teach-out agreements.
- Modify the definition of *Teach-out plan* to include institutions that are engaged in an orderly closure as well as institutions that are taking over a closed campus or accepting students enrolled at a closed campus to enable them to complete their programs.

#### §600.4 Institution of higher education.

- Adds to our regulations the statutory requirement that institutions must engage in arbitration prior to taking legal action against their accreditor in the event of a negative action. When agencies withdraw accreditation, they may be sued by the institution. Accreditors are encumbered by lengthy and costly legal battles when they take an adverse action, which serves as a significant deterrent from taking necessary action. Arbitration will allow agencies to take action as necessary and disputes to be resolved without costly litigation.

#### §600.5 Proprietary institution of higher education.

- Make conforming changes related to the initial arbitration requirement.
- Streamline the language regarding programs leading to a baccalaureate degree in liberal arts by removing redundant information regarding accrediting agencies.

#### §600.6 Postsecondary vocational institution.

- Make conforming changes related to the initial arbitration requirement.

#### §600.7 Conditions of institutional ineligibility.

- Define a correspondence student as one whose enrollment during an award year was entirely in correspondence courses.

#### §600.9 State authorization.

- Define a religious institution as one that publicly identifies itself as having, in part or in whole, a religious mission, or that maintains an institutional religious affiliation.

#### §600.10 Date, extent, duration, and consequence of eligibility

- Limit the requirement for Department approval of direct assessment postsecondary programs to the institution's first program of that type.

#### §600.11 Special rules regarding institutional accreditation or preaccreditation.

- Establish the conditions under which the Secretary may determine an institution's cause for changing its accrediting agency, or the institution's cause for holding accreditation from more than one agency, to be reasonable.

### SUBPART B—PROCEDURES FOR ESTABLISHING ELIGIBILITY

#### §600.20 Notice and application procedures for establishing, reestablishing, maintaining, or expanding institutional eligibility and certification.

- Assert that the Secretary shall ensure prompt action is taken by the Department on any application required under this section.

#### §600.21 Updating application information.

- Add new sections to address the addition of a direct assessment program
- Require an institution entering into a written agreement with an ineligible provider that will provide more than 25 percent of a program to receive prior approval from the institution's accreditor and notify the Department.

### SUBPART C—MAINTAINING ELIGIBILITY

#### §600.31 Change in ownership resulting in a change in control for private nonprofit, private for-profit and public institutions.

- Modify the definitions of *Closely-held corporation*, *Parent*, *Person*, and *the Standards for identifying changes of ownership and control*, to more accurately reflect how these entities are considered under Securities and Exchange Commission (SEC) rules.

#### §600.32 Eligibility of additional locations.

- Remove the two-year requirement for §§600.5(a)(7) or 600.6(a)(6) in circumstances where the applicant institution and the original closed institution are not related parties, have no commonality of ownership or management, and the applicant institution agrees to accept liability for the closed institution's prior actions and its unpaid refunds during the current term and for one prior academic year, and to abide by the closed institution's refund policies.
- Permit an institution to apply to have a location that does not meet the two year requirement added to its Program Participation Agreement if the institution is conducting a teach-out pursuant to a teach-out plan approved by both accrediting agencies.

#### §600.41 Termination and emergency action proceedings

- Removed outdated language regarding termination of an institution or location
- Added language regarding use of a teach-out plan following termination when the Secretary determines it is in the best interest of the students

#### §600.52 Definitions

- This section eliminates a restriction on U.S. students enrolled at a *foreign institution* from taking any classes at a U.S. institution or another foreign institution, or to forfeit title IV participation for their entire program. This is an unreasonable restriction that adds to the cost of attendance for those students and that prevents those students from taking advantage of opportunities to take courses the foreign institution doesn't offer or to continue earning credits toward completion during school breaks. We propose to amend these regulations to allow students enrolled at foreign institutions to complete up to 25% of their program at a U.S. institution or another foreign institution. We believe this will provide increased flexibility for students, which may improve the educational experience, accelerate completion or reduce the total cost of earning a degree.